

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed on August 12, 2004 ("Office Action"). Claims 1-27 are pending in the application and were rejected by the Office Action. Applicants amend Claims 2, 11 and 22 to correct typographical errors. Applicants respectfully request reconsideration and favorable action in this case.

Information Disclosure Statement

The Office Action requests re-submittal of the documents listed in the Information Disclosure Statement submitted by Applicants on April 16, 2004. Enclosed with this Response are copies of the Information Disclosure Statement, PTO Form 1449, and two (2) non-patent references as filed by Applicants on April 16, 2004. Applicants respectfully request that the Examiner consider the references and provide the appropriate indication that the cited items were considered.

Claim Objections

The Office Action objects to Claim 23 for containing informalities. Claim 23, as well as Claims 2 and 22, have each been amended to correct a typographical error. Applicants respectfully request that this objection be withdrawn.

Double Patenting Rejection

The Office Action rejects Claims 1-21 under 35 U.S.C. § 101 (statutory type double patenting) as being unpatentable over claims of U.S. Pat. No. 6,661,908 ("the '908 Patent"). Applicant respectfully traverses this rejection. For a statutory double patenting rejection to be proper, identical subject matter must be claimed. *See Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1984); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957). The MPEP confirms that if there is an embodiment that falls within the scope of one claim and not in the other, "then identical subject matter is not defined by both claims and statutory double patenting does not exist." MPEP § 804.

Independent Claim 1 of the '908 Patent recites:

A method of authenticating a signature, comprising the steps of:
sampling a signature and storing data representative of said signature;
converting said data to high dimension vectors using a recursive sampling process, wherein said recursive sampling process comprises iteratively focusing on increasingly smaller features of said signature, defined by shorter time spans;
feeding said high dimension vectors to an unsupervised neural network and performing a high order principal component extraction process on said high dimension vectors by cumulative orthonormalization, thereby identifying clusters of high dimension points; and
analyzing said clusters of high dimension points to determine, based on previously stored information, the authenticity of said signature.

and independent Claim 1 of the present application recites:

1. (Original) A method of authenticating a signature, comprising the steps of:
sampling a signature and storing data representative of the signature;
converting said data to high dimension vectors using a recursive sampling process;
feeding the high dimension vectors to an unsupervised neural network and performing a high order principal component extraction process on the high dimension vectors by cumulative orthonormalization, thereby identifying clusters of high dimension points; and
analyzing the clusters of high dimension points to determine, based on previously stored information, the authenticity of the signature.

For example, Claim 1 of the '908 Patent includes "wherein said recursive sampling process comprises iteratively focusing on increasingly smaller features of said signature, defined by shorter time spans," which is clearly missing from Claim 1 of the present application. Applicants respectfully assert that Claim 1 of the present Application is broader than Claim 1 of the '908 Patent and, therefore, there is an embodiment of that falls within the scope of one claim and not in the other. *See* MPEP § 804. Put another way, Claim 1 of the present application does not claim identical subject matter as Claim 1 of the '908 Patent. *See In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970). Indeed, the Office Action implicitly concedes that the claims do not claim identical subject matter by asserting that "the claims of the application are generic compared to the patented claims, which is directed to a specific species." Office Action, pg. 4.

Accordingly, Applicant respectfully asserts that statutory double patenting does not exist between the present claims and the claims of the '908 patent and the rejection is improper. Moreover, Applicant encloses a Terminal Disclaimer to obviate any nonstatutory double patenting rejection of Claims 1-21.

The Office Action further rejects Claims 22 and 23 under the judicially created doctrine of double patenting over claims 26 and 4 respectively of the '908 Patent. Claims 24-27 were also rejected under the judicially created doctrine of double patenting as directly or indirectly depending on claim 22. Accompanying this Response is the Terminal Disclaimer to obviate the nonstatutory double patenting rejection of Claims 24-27.

Applicant respectfully requests that the double patenting rejection of Claims 1-27 be withdrawn.

CONCLUSION

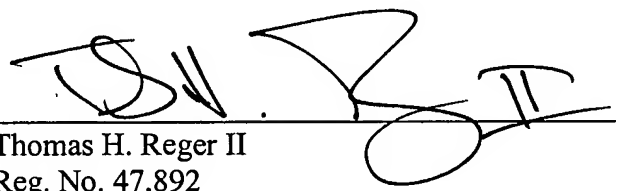
Applicants have now made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all Claims. If the present application is not allowed and/or if one or more of the rejections is maintained, Applicants hereby request a telephone conference with the Examiner and further request that the Examiner contact the undersigned attorney to schedule the telephone conference.

Note, Applicants filed a Revocation and New Power of Attorney on June 3, 2004, a copy of which is attached.

Enclosed is a \$110 check for the Terminal Disclaimer and a \$110 check for a one-month extension of time. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: November 16, 2004



Thomas H. Reger II
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Enclosures: Copy of Information Disclosure Statement, PTO Form 1449 and 2 non-patent references (6 pages)
Terminal Disclaimer (2 pages)
Check in the amount of \$110
Copy of Transmittal and Revocation and New Power of Attorney (10 pages)
Petition for Extension of Time (1 page)
Check in the amount of \$110

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